

## EXPLANATORY STATEMENT

### *Consumer Goods (Infant Products) Information Standard 2024*

#### 1. Authority

The Assistant Treasurer and Minister for Financial Services (the **Minister**) has made the *Consumer Goods (Infant Products) Information Standard 2024* (the **Information Standard**), pursuant to section 134 (1) of the Australian Consumer Law (the **ACL**), which is Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (the **CCA**).

#### 2. Purpose and operation of the Information Standard

It is important that products which children use for sleeping purposes are as safe as possible. Infant sleep products, including those non sleep products which are supplied with an inclined surface, have been associated with infant deaths and injuries.

Currently there are no Australian mandatory standards that address the risks associated with incline, curvature, rigidity and materials used in construction. There are mandatory safety standards for household cots and folding (portable) cots. However, neither of these standards capture all known risks, and they do not cover all infant sleep products such as bassinets or bedside sleepers.

To reduce the risks of death or injuries associated with infant sleep products, a mandatory safety standard for infant sleep products has been developed which provides for various design, construction, performance and marking requirements.

It is intended that this Information Standard supplements the safety standard for infant sleep products by requiring these products to be provided with appropriate warnings and instructions for their safe use.

#### 3. Consultation

Before the Information Standard was made, the Minister was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the *Legislation Act 2003*.

In February 2021 the ACCC consulted with 14 stakeholders in a targeted consultation to understand if the risk of incline for inclined sleep products was applicable in the Australian market.

In July 2021 the ACCC published an issues paper which considered the risks associated with inclined sleep products, inclined non-sleep products and possible options to address those risks. The ACCC received 27 submissions from a range of stakeholders.

In August 2022 the ACCC published a consultation paper which considered the broader risks associated with infant sleep and the likely effectiveness and cost of regulatory and non-regulatory options to address the risks identified. The ACCC received 27 submissions from a range of stakeholders.

In March 2023 the ACCC sought further targeted feedback from industry in relation to possible test methods and requirements for surface materials (breathability), firmness and bassinets.

The ACCC detailed 4 policy options to address the risks associated with infant sleep products:

- Option 1 – Take no action (status quo), retain the current mandatory safety standards for household cots and folding cots.
- Option 2 – Amend the existing mandatory standards for household cots and folding cots in line with updated voluntary Australian standards for those products plus an education campaign.
- Option 3 – Implement a mandatory information standard for infant sleep products, inclined non-sleep products, and an education campaign.
- Option 4 – Implement a mandatory safety standard for infant sleep products, mandatory information standard for infant sleep products and inclined non-sleep products, and revoke the household cots and folding cots mandatory standards.

The ACCC's position outlined in the consultation paper supported Option 4, as this option would provide the greatest net benefit to consumers, suppliers and regulators. Stakeholders generally agreed with the ACCC's position. The ACCC then recommended that the Minister exercise his power under subsection 104(1) of the ACL to make an Information Standard in relation to infant sleep products to mitigate the identified risks associated with their use.

#### **4. Disallowance and Sunsetting**

By operation of subsections 44(1) and 54(1) of the *Legislation Act 2003*, the instrument is not subject to disallowance or sunsetting because its enabling legislation, the ACL (at Schedule 2 of the CCA), facilitates the operation of an intergovernmental scheme involving the Commonwealth and all the States and Territories (the *Intergovernmental Agreement for the Australian Consumer Law*), and the ACL authorises the making of the instrument for the purposes of that scheme.

Item 16 in the table at section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* also provides that the instrument is not subject to the sunsetting provisions of the *Legislation Act 2003*.

#### **5. Commencement**

The legislative instrument commences the day after the end of the period of 18 months beginning on the day the *Consumer Goods (Infant Sleep Products) Safety Standard 2024* commences.

#### **6. Regulation Impact Assessment**

The Office of Impact Analysis (**OIA**) advised a Regulation Impact Statement was required (OIA ID SS123QM121).

## Details of the *Consumer Goods (Infant Products) Information Standard 2024*

### PART 1 – PRELIMINARY

#### Section 1 – Name

This section sets out that the title of the Standard is the *Consumer Goods (Infant Products) Information Standard 2024*.

#### Section 2 – Commencement

This section provides that the instrument commences the day after the end of the period of 18 months beginning on the day the *Consumer Goods (Infant Sleep Products) Safety Standard 2024* commences. The Federal Register of Legislation may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

#### Section 3 – Authority

This section provides that the instrument is made under section 134(1) of the ACL. Section 134 of the ACL allows the Minister to make information standards for consumer goods and product-related services.

#### Section 4 – Application

This section identifies which infant products the instrument applies to, and which products are excluded.

#### Section 5 – Definitions

This section provides the definitions of key terms used in the instrument.

**Electronic platform** is defined to mean a service that enables a business to supply, or offer to supply, goods or services over the internet (whether by a website, an online marketplace or other means, and whether operated by that business or another business).

**Inclined non-sleep product** means a product that:

- (a) is designed, intended, marketed, supplied, or offered for supply for use by an infant; and
- (b) has a surface on which an infant may lay; and
- (c) when used, may position the infant's head above the horizontal; and
- (d) is not supplied, or offered for supply, as an infant sleep product and does not purport that it is suitable for infant sleep, even if an infant may fall asleep when using the product.

**Infant** in relation to an infant sleep product, means a person under the age of 12 months, or a person over the age of 12 months that might reasonably use the product as a sleeping facility.

**Infant product** means an infant sleep product or an inclined non-sleep product

**Infant sleep product** means a product that is designed, intended, marketed, supplied, or offered for supply, for use as a sleeping facility for an infant and has a surface on which an infant may lay.

**Retail premises** means premises in which consumer goods are displayed for retail sale to consumers.

## **PART 2 – Information standard for infant products**

### **Division 1 – General requirements**

#### Section 6 – Information to be provided with infant products

This section provides requirements for instructions that must accompany the infant product. This information relates to safe assembly, use and maintenance of the infant product. This includes instructions on folding or collapsing the product, mattress size and fit and other relevant information. This information is also to be made available at the point of sale of the product. Instructions which provide this sort of information promote the safe use of the product and protect the child's safety when in the product.

#### Section 7 – Markings required for infant products

This section provides requirements for instructions to be provided with the infant product and markings relating to details of the manufacturer and the product's origins to be provided on Infant Products.

### **Division 2 – Warnings**

#### Section 8 – Warnings on infant products

This section provides requirements for markings on the infant product and packaging of the product in terms of their prominence, size and form.

It provides requirements for the wording of markings on the infant product. The warnings relate to placing the infant to sleep on their back, strangulation, and safe sleep practices (including warnings against soft bedding and other hazardous products being introduced into the infant product). Infants placed on their stomachs (in a prone position) are significantly more at risk.

This section also provides additional warning requirements for infant non-sleep products which have an incline. The warnings relate to placing the infant on their back, using the product under supervision, and not using the product as a sleeping device. Infants placed in products which are not intended for sleep are at risk.

#### Section 9 – Warnings on packaging of infant products

This section provides requirements for warnings to be provided on infant product packing materials relating to the potential suffocation risk from the packaging.

#### Section 10 – Warnings to be displayed online or in store

This section provides requirements that the warnings required for the infant product must be prominently displayed and included on both electronic platforms and in retail outlets.